

FILED

NOV 09 2018

Clerk, U.S. District Court
District Of Montana
Helena

UNITED STATES DISTRICT COURT
DISTRICT OF MONTANA
HELENA DIVISION

THE STATE OF MONTANA,

Plaintiff,

v.

THE REAL PROPERTY LOCATED
AT 6350 W. MONTANA
HIGHWAY 200 WITH ALL
IMPROVEMENTS AND
FIXTURES THEREON; A 2008
BLACK CHEVROLET
SILVERADO, VIN NO.
3GCEK13J78G240938,
REGISTERD TO DENNIS PEIKER;
A 1986 JOHN DEERE
EXCAVATOR, SERIAL NO. 3866;
A RED POLARIS SPORTSMAN
600 ATV WITH TRACKS, WITH
ATTACHED VIN NO. OF
4XAMH26A671208155; A
YELLOW POLARIS SPORTSMAN
400 ATV, WITH ATTACHED VIN
NO. OF 4XACH12A84A054964; A
GREEN POLARIS MAGNUM 425
ATV WITH GREEN CART,

Defendants.

UNITED STATES OF AMERICA,

Counterclaimant,

Civil No. 6:15-cv-00074-CCL

**ORDER GRANTING UNITED
STATES' MOTION FOR
DISBURSEMENT OF FUNDS
AND CONFIRMATION OF
SALE**

v.

THE STATE OF MONTANA
Counter-Defendant,

AND

DENNIS PEIKER; PAMELA
PEIKER, A.K.A., PAMELA ST.
GEORGE; MARK MONROE;
BRIAN WISEMAN,

Additional Defendants on
Counterclaim.

The United States of America ("United States") has moved the Court for an order confirming the sale of the real property located at 6350 W. Montana Highway 200, Lincoln, MT 59632 ("Subject Property") and disbursement of funds. The Subject Property was sold on August 8, 2018 for \$221,000. Based on the United States' motion and for good cause shown, the Court hereby GRANTS the United States' motion and CONFIRMS the sale of the Subject Property.

The Subject Property is a parcel of real property located at 6350 W. Montana Highway 200, Lincoln, MT 59632. The Subject Property is legally described as:

The North Half of the Northeast Quarter (N1/2NE1/4) of Section 30, Township 14 North, Range 9 West, P.M.M., records of Lewis and Clark County, Montana.

EXCEPTING THEREFROM:

Tracts 1 and 2 as shown on Certificate of Survey filed under Document Number 605479/T.

That portion of Montana State Highway 200 as described in Bargain and Sale Deed execute by Delbert F. and Maryann Barham to the State of Montana for the benefit and use of its Department of Highways recorded February 3, 1993, in M Book 13, Page 8747, records of Lewis and Clark County, Montana.

A four sided tract or parcel of land located in the NE1/4 of the NE1/4 SECTION 30, TOWNSHIP 14 NORTH, RANGE 9 WEST, P.M.M., Lewis and Clark County, said land lies South and adjacent to the MONTANA STATE HIGHWAY designated as State Highway Number 20 in Lewis and Clark County, Montana, and more particularly described by metes and bounds, as follows, to-wit:

Beginning at an iron post, 30 inches long, 2 1/2 inches in diameter, 22 inches in the ground, with brass cap marked NE 1/16, S. 30, 1956, and said iron post is the point for the NE 1/16 Section corner of Section 30, and said corner is at the center of the NE 1/4 of Section 30, Township 14 North, Range 9 West; thence N. 0°30' W., 433.00 feet on the North-South center line of the NE 1/4 of Section 30 to a 3/4 inch X 30 inch iron bolt that is on the South Right-of-Way line of State Highway No. 20 and said bolt is at State Highway Right-of-Way station 554 +06.33; thence S. 69°58'20" E., 220.92 feet along the South Right-of-Way line of the State Highway to a 3/4 inch X 30 inch iron bolt that is at the State Highway survey station 556 + 27.25; thence S. 0°34'20" E., 356.92 feet to a 3/4 inch iron bolt that is on the East-West center line of the NE 1/4 of Section 30, Township 14 North, Range 9 West; thence S. 89°53' W., 207.36 feet along the said East-West center line of the NE 1/4 of Section 30 to the place of beginning. (Deed reference Book 207 of Deeds, Page 40)

A tract of land in the N1/2NE1/2 of Section 30, Township 14 North, Range 9 West, containing in all 10.72 acres, more or less, including, however, 1.03 acres which constitute a part of an existing public highway, by warranty deed recorded in Book 179 of Deeds at page 320, records of Lewis and Clark County, Montana, to the State of Montana Commission.

A tract of land containing in all 3.89 acres more or less. including, however, 1.81 acres herein described which have been previously

conveyed, described as a tract of land in N1/2NE1/2 of Section 30, Township 14 North, Range 9 West, described as Commencing at the Southeast corner of said N1/2NE1/2, thence westerly 155 feet, more or less along the south line of said N1/2NE1/2 to a point on the southerly right of way line of new Montana State Highway Project F 267 (6), the true point of beginning of this description; thence westerly along said south line of the N1/2NE1/4, 971.1 feet to a point; thence northerly to a point on the southerly right of way line of new State Highway Project F 267 (6); thence S. 70°15'30" East along said southerly right of way line to the point of beginning, said deed being recorded in Book 179 of Deeds at page 438, records of Lewis and Clark County, Montana.

Acre Number 3 conveyed by warranty deed recorded in Book 208 of Deeds, page 495, records of Lewis and Clark County, Montana, located in the Southeast portion of the N1/4NE1/4 of Section 30, Township 14 North, Range 9 West, more particularly described as: Starting at the East line of the N1/2NE1/4 of Section 30, Township 14 North, Range 9 West, and northerly right of way line of the new Montana State Highway Project F 267 (6), the true point of beginning; thence 216 feet Westerly along highway Project F 267 (6) line to Corner No.2; thence 200 feet Northerly and parallel to the East line of said N1/2NE1/4 of Section 30, Township 14 North, Range 9 West, to point of beginning.

A tract of land in the N1/2 of the NE1/4 of SECTION 30, TOWNSHIP 14 NORTH, RANGE 9 WEST. Said acre being located approximately 700 feet west of the S.E. Corner of the above described land. This acre will be known as Acre No. 2 and its corners so marked and designated and the dimensions are 206 feet by 206 feet. (Deed reference Book 172 of Deeds, Page 379)

Excepting therefrom that portion conveyed to the State of Montana for Highway purposes by Book 179 of Deeds, Page 274.

A tract of land in N1/2NE1/4 SECTION 30, TOWNSHIP 14 NORTH, RANGE 9 WEST, P.M.M., Lewis and Clark County, Montana, more particularly described as follows:

Commencing at a point on the south line of said N1/2NE1/4; thence westerly 155 feet, more or less, along the south line of said

N1/2NE1/4 to a point on the southerly right of way line of new State Highway Project F267 (6) the true point of beginning of this description; thence westerly along the south line of said N1/2NE1/4, 430 feet to a point; thence northerly and parallel to the east line of said N1/2NE1/4, 150 feet, more or less, to a point on the southerly right of way line of said New State Highway Project F267 (6) thence S70°15'30" E., along said right of way line to the point of beginning. (Deed Reference Book 204 of Deeds, Page 1).

The sale of the Subject Property is free and clear of any lien or interest of any of the named defendants. The IRS shall issue a deed for the Subject Property to the purchasers.

IT IS FURTHER ORDERED THAT the clerk is authorized and directed to draw checks on the funds deposited in the registry of this court in the principal amount of \$221,000 plus all accrued interest, minus any statutory users fees, payable to the following payees and mail or deliver the checks to the payees at the following addresses:

1. To the Internal Revenue Service for costs of the judicial sale in the amount of \$2,767.13 by check made payable to the "United States Treasury" and mailed to:

IRS PALS
c/o Darlene Jones
4041 N Central Ave M/S 5021
Phoenix, AZ 85012-3330

The check shall bear a notation "Case No. 6:15-cv-00074-CCL (D MT)."

2. To Lewis and Clark County, in the amount of \$16,873.24 for outstanding real property taxes due and owing as of October 15, 2018, as well as costs incurred in preserving the Subject Property. In addition, a per diem rate of \$3.75 will be added for any day beginning October 16, 2018, through the date of payment. The payment shall be by check made payable to the "Lewis and Clark County" with the notation "Case No. 6:15-cv-00074-CCL (D MT)". and mailed to:

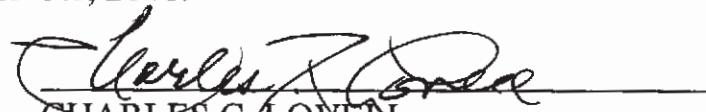
County Attorney Office
c/o Leo Gallagher
Courthouse – 228 E. Broadway
Helena, MT 59601

3. The remainder to the United States for application to the federal income and employment tax liabilities of Dennis Peiker, by check made payable to the "Department of Justice" with the notation "Case No. 6:15-cv-00074-CCL (D MT)". and mailed to:

Tax FLU, Office of Review
U.S. Dept. of Justice Tax Division
P.O. Box 310
Ben Franklin Station
Washington, D.C. 20044-0310

IT IS SO ORDERED.

DATED this 9th day of November, 2018.


CHARLES C. LOVELL
SENIOR UNITED STATES DISTRICT
JUDGE